



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

July 11, 2011

CBCA 2044-RELO

In the Matter of RANDY C. DAVIDSON

Martin J. Cirkiel of Cirkiel & Associates, Round Rock, TX, appearing for Claimant.

James E. Hicks, Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Springfield, VA, appearing for Department of Justice.

McCANN, Board Judge.

Claimant, Randy C. Davidson, asked the Board to set aside the Drug Enforcement Administration's (DEA's) demand that he repay \$50,174.95 in relocation benefits. The DEA demanded the repayment because Mr. Davidson signed an agreement to remain in government service for twelve months after his transfer and did not do so. In our original decision, *Randy C. Davidson*, CBCA 2044-RELO, 11-1 BCA ¶ 34,750, we found that the DEA did not abuse its discretion in demanding the return of the benefits because the Merit Systems Protection Board (MSPB) had found that Mr. Davidson had not established that his retirement constituted an involuntary separation from the service. In fact, the MSPB ruled that, even if all of Mr. Davidson's allegations were taken as true, he still did not establish a case that his separation from service was involuntary.

Pursuant to Board Rule 407 (48 CFR 6104.407 (2010)), Mr. Davidson has filed a motion for reconsideration of the Board's decision. This rule provides that "[mere] disagreement with a decision or re-argument of points already made is not a sufficient ground for seeking reconsideration." Here, for the same reasons as before stated, Mr. Davidson contends that his separation from service was involuntary.

As in his original appeal, Mr. Davidson contends that certain actions by other employees and supervisors of the DEA made his work environment hostile. In his motion

he now contends that these actions constituted prohibited personnel actions (PPAs) and that we should not rule that he should return the relocation benefits until the Equal Employment Opportunity Commission rules on whether such actions constituted PPAs. Mr. Davidson has presented us with nothing new here. As we indicated in our decision, the agency has discretion to determine whether a separation from service which appears to be voluntary is, in reality, not. *Davidson*, 11-1 BCA at 171,055 (citing *Paula A. Shimata*, CBCA 1135-RELO, 08-2 BCA ¶ 33,901, at 167,775). The agency has not abused its discretion here in finding his separation to be voluntary. Mr. Davidson's attempt to classify DEA's actions as PPAs does not alter that fact. Mr. Davidson disagrees with our decision, but has offered nothing new to support his motion for reconsideration.

Decision

Mr. Davidson has provided us with no valid reason to reconsider our decision. Accordingly, his motion for reconsideration is denied.

R. ANTHONY McCANN
Board Judge